

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADJUSTACAM LLC,

Plaintiff,

V.

AMAZON.COM, INC.;
AUDITEK CORPORATION; et al.

Defendants,

CASE NO. 6:10-CV-00329-LED

**DEFENDANT/COUNTER-CLAIMANT AUDITEK CORPORATION'S Answer
and Counter-Claim**

Come now Defendant/Counter-Claimant Auditek Corporation (“Auditek”) and gave its Answer and Counter-Claim, in response to the First Amended Complaint (ECF #111) filed by Plaintiff/Counter-Defendant AdjustaCam LLC (“AdjustaCam”), as follows:

- 1 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.
- 2 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.
- 3 Auditek admits the allegation of place of business.

4 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

5 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

6 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

7 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

8 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

9 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

10 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

11 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

12 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

13 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

14 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

15 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

16 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

17 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

18 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

19 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

20 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

21 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

22 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

23 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

24 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

25 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

26 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

27 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

28 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

29 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

30 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

31 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

32 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

33 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

34 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

35 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

36 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

37 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

38 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

39 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

40 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

41 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

42 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

43 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

44 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

45 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

46 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

47 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

48 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

49 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

50 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

51 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

52 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

53 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

54 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

55 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

56 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

57 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

58 Auditek admits the subject matter jurisdiction under 28 USC 1331 and 1338. Auditek is without sufficient information to admit or deny the factual allegation re selling, inducement and distribution of accused products in the judicial district and, on that basis, deny.

59 Auditek is a California corporation; Auditek denies that the venue is proper and reserves its right to move the court for change of venue.

60 Auditek admits the allegation of the existence of the 5,855,343 patent ("343 Patent"), to the extent the description, specification and claims of said 343 Patent comport with the records of United States Patent and Trademark Office ("USPTO").

61 Auditek admits the allegation of the existence of the 5,855,343 patent ("343 Patent"), to the extent the assignments, right to sue and standing for assertion of infringement of said 343 Patent comport with the records of United States Patent and Trademark Office ("USPTO"). Auditek is without sufficient information to admit or deny other factual allegations and, on that basis, deny.

62 Auditek admits the allegation of the existence of the 5,855,343 patent ("343 Patent"), to the extent the description, specification and claims of said 343 Patent comport with the records

of United States Patent and Trademark Office (“USPTO”). Auditek is without sufficient information to admit or deny other factual allegations and, on that basis, deny.

63 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

64 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

65 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

66 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

67 Auditek denies the allegation of factual account re its infringement liability.

68 Auditek denies the allegation of factual account re its infringement liability.

69 Auditek denies the allegation of factual account re its infringement liability.

70 Auditek denies the allegation of factual account re its infringement liability.

71 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

72 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

73 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

74 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

75 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

76 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

77 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

78 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

79 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

80 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

81 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

82 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

83 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

84 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

85 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

86 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

87 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

88 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

89 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

90 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

91 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

92 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

93 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

94 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

95 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

96 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

97 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

98 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

99 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

100 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

101 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

102 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

103 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

104 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

105 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

106 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

107 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

108 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

109 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

110 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

111 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

112 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

113 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

114 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

115 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

116 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

117 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

118 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

119 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

120 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

121 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

122 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

123 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

124 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

125 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

126 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

127 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

128 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

129 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

130 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

131 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

132 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

133 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

134 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

135 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

136 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

137 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

138 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

139 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

140 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

141 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

142 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

143 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

144 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

145 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

146 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

147 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

148 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

149 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

150 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

151 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

152 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

153 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

154 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

155 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

156 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

157 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

158 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

159 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

160 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

161 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

162 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

163 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

164 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

165 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

166 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

167 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

168 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

169 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

170 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

171 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

172 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

173 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

174 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

175 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

176 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

177 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

178 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

179 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

180 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

181 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

182 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

183 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

184 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

185 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

186 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

187 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

188 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

189 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

190 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

191 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

192 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

193 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

194 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

195 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

196 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

197 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

198 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

199 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

200 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

201 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

202 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

203 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

204 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

205 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

206 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

207 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

208 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

209 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

210 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

211 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

212 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

213 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

214 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

215 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

216 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

217 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

218 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

219 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

220 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

221 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

222 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

223 Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

224 Auditek denies the allegation of Auditek's infringement. To the extent the allegation contained factual account related to other defendants, Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

225 Auditek denies the allegation of Auditek's infringement and any damages AdjustaCam suffered as a result thereof. To the extent the allegation contained factual account related to other defendants, Auditek is without sufficient information to admit or deny the allegation and, on that basis, deny.

226 Auditek is without sufficient information to admit or deny the allegation and further has no obligation to respond to a statement of law, and, on that basis, deny.

Affirmative Defenses

1. Plaintiff failed to state a claim.
2. Auditek did not infringe upon AdjustaCam's 343 Patent, either literally, or by doctrine of equivalents, or in any direct, indirect, contributory or inducing capacity.
3. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.
4. Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.
5. Plaintiff's claims are barred, in whole or in part, by 35 U.S.C. 287.
6. Plaintiff's claims are barred, in whole or in part, by patent misuse.
7. Plaintiff's claims are barred, in whole or in part, by prosecution estoppel.
8. Some defendants are improperly joined and Auditek reserves its right to seek separate trials.
9. Auditek reserves its right to amend the affirmative defenses as the case progresses.

Counter-Claim for

Non-infringement, Invalidity and Unenforceability

1. This counterclaim arises under 28 USC 2201 and 2201. This Court has subject matter jurisdiction for patent matters, pursuant to 28 USC 1338. There is an actual justiciable controversy between Auditek and Plaintiff.
2. Plaintiff alleged to be the owner of all right, title and interest in and to the 5,855,343 patent ("343 Patent").
3. Plaintiff has asserted that Defendant Auditek infringed upon its 343 Patent.

4. On information and belief, and pending further discovery findings, the 343 Patent should be invalid under the provisions of 35 USC 101, 102, 103 and/or 112.
5. Plaintiff has, in bad faith, made assertion of infringement knowing that the products features are different than what were claimed in the 343 Patent.
6. Plaintiff has, in bad faith, claimed royalty as damages that exceeded its scope of entitlement, if it is entitled to any damages claims at all.
7. Due to the controversy stated herein re the validity, enforceability and infringement, Auditek requests the Court a declaratory judgment in its favor.

PRAYER

- a. A judgment of non-infringement be entered by Court.
- b. An order be made that the 343 Patent is invalid and/or unenforceable.
- c. Plaintiff be ordered to pay attorney's fees and costs to Auditek.
- d. Such other reliefs be awarded to Auditek, as the Court deems just and reasonable.

Dated: Nov. 17, 2010

Respectfully Submitted,

/s/Jen-Feng Lee

Jen-Feng Lee, *Pro Hac Vice*
LT Pacific Law Group LLP
17800 Castleton Street, Suite 383
City of Industry, CA 91748
Tel: (626) 810-7200
Fax: (626) 810-7300

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2010, the foregoing document has been electronically filed with the Clerk in accordance with the CM/ECF system procedures and Local Rule CV-5(a), which will cause email notification of such filing to be served upon all counsel who have consented to electronic service.

/s/ Jen-Feng Lee
Jen-Feng Lee